

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MYRON WARD,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 04-11 Erie
v.)	
)	JUDGE McLAUGHLIN
JOHN J. LAMANNA, et al.,)	MAGISTRATE JUDGE BAXTER
)	
Defendants.)	<i>(Electronic Filing)</i>

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED
COMPLAINT OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

AND NOW, come Defendants, John J. LaManna, Debora Forsyth, Martin Sapko, Stephen Housler, Ned Watson, and the United States of America (hereinafter "Defendants"), by their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Christy Criswell Wiegand, Assistant United States Attorney for said district, and pursuant to Rule 12 (b)(1) and (6) of the Federal Rules of Civil Procedure, respectfully move the Court to issue an Order dismissing the Second Amended Complaint filed by Plaintiff, Myron Ward, on the ground that Plaintiff has failed to state a claim upon which relief may be granted.

Alternatively, pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendants move the Court to enter summary judgment in favor of Defendants, upon the ground that there is no genuine issue as to any material fact and the Defendants are entitled to judgment as a matter of law.

A Brief in support of this Motion, together with relevant exhibits, is being filed simultaneously herewith and the contents therein are hereby incorporated by reference.

WHEREFORE, Defendants respectfully request that the Court issue an Order dismissing the Second Amended Complaint of Plaintiff, Myron Ward, with prejudice, or in the alternative, granting summary judgment in favor of Defendants and against Plaintiff.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

/s/ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
Assistant U.S. Attorney
Western District of PA
U.S. Post Office & Courthouse
700 Grant Street, Suite 4000
Pittsburgh, PA 15219
(412) 894-7452

Counsel for Defendants

OF COUNSEL:

Douglas S. Goldring
Assistant General Counsel
Federal Prison Industries (UNICOR)
400 First Street, NW, 8th Floor
Washington, DC 20534

CERTIFICATE OF SERVICE

I hereby certify that I have served this date a copy of the within **DEFENDANTS'** **MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT** by either electronic filing and/or first-class United States mail, upon the following:

Richard A. Lanzillo, Esquire
Knox, McLaughlin, Gornall & Sennett
120 West Tenth Street
Erie, PA 16501

Counsel for Plaintiff

/s/ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
Assistant U.S. Attorney

Date: February 15, 2006